

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

DELBERT COBB,

Petitioner,

vs.

E.K. MCDANIELS, *et al.*,

Respondents.

3:14-cv-00642-RCJ-VPC

ORDER

Petitioner has submitted an application (#1) to proceed *in forma pauperis* and a habeas petition.

The matter has not been properly commenced because the pauper application does not include all required attachments. Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR1-2, a petitioner must attach both an inmate account statement for the past six months and a properly executed financial certificate. Petitioner did not attach a financial certificate or an inmate account statement for the past six months. The application therefore is incomplete.

Further, petitioner has not submitted his petition on the form required by this court, nor does his submission substantially conform to the form. As the form prescribes, a petition shall set forth each ground for which petitioner claims his state court conviction and/or sentence is unconstitutional and summarize briefly the facts supporting each ground. Legal argument or long lists of case citations are not appropriate.

The application for leave to proceed *in forma pauperis* therefore will be denied, and the present action will be dismissed without prejudice to the filing of a new petition in a new action with a pauper application on the proper form with all required attachments.

1 It does not appear from the papers presented that a dismissal without prejudice will materially
2 affect a later analysis of any timeliness issue with regard to a *promptly* filed new action.¹

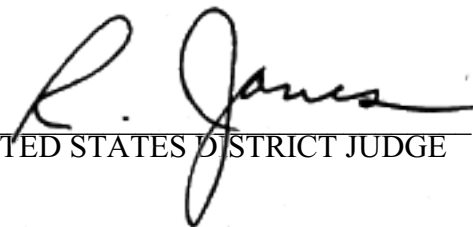
3 **IT THEREFORE IS ORDERED** that the application (#1) to proceed *in forma pauperis* is
4 **DENIED** and that this action shall be **DISMISSED without prejudice** to the filing of a new petition
5 in a new action with a properly completed pauper application.

6 **IT FURTHER IS ORDERED** that a certificate of appealability is **DENIED**, as jurists of
7 reason would not find the Court's dismissal of this improperly commenced action without prejudice to
8 be debatable or incorrect.

9 **IT FURTHER IS ORDERED** that the Clerk shall send petitioner two copies each of an
10 application form to proceed *in forma pauperis* for incarcerated persons and a noncapital Section 2254
11 habeas petition form, one copy of the instructions for each form, and a copy of the papers that he
12 submitted in this action.

13 **IT FURTHER IS ORDERED** that the Clerk of Court shall enter judgment accordingly and
14 close this case.

15 DATED: This 11th day of February, 2015

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20 UNITED STATES DISTRICT JUDGE
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26 ¹With regard to timeliness, the online docket records of the state courts indicate that the Nevada Supreme Court
27 affirmed the denial of petitioner's state postconviction petition in Case No. 61929 on May 13, 2014, and remittitur
28 issued on June 24, 2014. Petitioner at all times remains responsible for properly exhausting his claims, for calculating
the running of the federal limitation period as applied to his case, and for properly commencing a timely-filed federal
habeas action.